

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-3-29-.08

Rule Title: Alabama Requirements for Mandatory E-File of Fiduciary Income Tax Returns

New; Amend; Repeal; Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

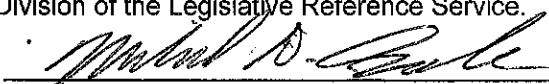
Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule have any economic impact? Yes

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975 and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer 

Date 6/22/15

APA-6
10/96

**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))**

Control No. 810 Department or Agency REVENUE

Rule No: 810-3-29-.08

Rule Title: Alabama Requirements for Mandatory E-File of Fiduciary Income Tax Returns

X New Amend Repeal Adopt by Reference

- NO This rule has no economic impact.
 YES This rule has an economic impact, as explained below:

1. **NEED/EXPECTED BENEFIT OF RULE:**
Fiduciary returns will be received electronically.
2. **COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:**
Benefits of an efile return are numerous: More accurate, processed immediately, confirmation number that it has been received, free to file, no mail handling, no filing, no retrieval, etc.
3. **EFFECT OF THIS RULE ON COMPETITION:**
N/A
4. **EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:**
N/A
5. **EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA HERE THE RULE IS TO BE IMPLEMENTED:**
N/A
6. **SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:**
ADOR resources
7. **THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:**

ADOR resources normally used will be reduced in the costs savings associated with efilng.

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:
N/A
9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:
N/A
10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:
None
11. OTHER COMMENTS:
Cost efficient for both the filer and the Department.

APA-2
11/96

**ALABAMA DEPARTMENT OF REVENUE
Individual & Corporate Tax Division**

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-3-39-.12 Alabama Requirements for Mandatory E-File of Original
Corporate Income Tax Returns

810-3-28-.07 Alabama Requirements for Mandatory E-File of Original
Partnership/Limited Liability Company Income Tax Returns

INTENDED ACTION: Repeal and Replace

SUBSTANCE OF PROPOSED ACTION: The department proposes to repeal the existing language in the above rules and replace it with new language to provide guidance, clear definitions and to remove any obsolete information.

RULE NO. & TITLE

810-3-29-.08 Alabama Requirements for Mandatory E-File of Fiduciary Income
Tax Returns

INTENDED ACTION: Adopt new rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to adopt the above rule to provide guidance and definitions for filing requirements and exclusions for both an income tax return preparer and an Estate/Trust.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **2:00 p.m. on Wednesday, August 12, 2015, Room 1203, First Floor**, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at <http://revenue.alabama.gov/analysis/upcoming-rule-hearings.cfm>

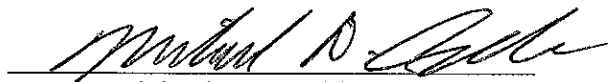
All interested parties may present their views in writing to the **Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time during the thirty-five (35) day period following publication of the notice or by appearing at the hearing.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Wednesday, August 12, 2015

CONTACT PERSON AT AGENCY:

Patricia Thomas
Alabama Department of Revenue
4131 Gordon Persons Building
Montgomery, Alabama 36132
(334) 242-1380



Michael D. Gamble, Secretary
Alabama Department of Revenue

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810-3-29-.08 Alabama Requirements for Mandatory E-File of Fiduciary Income Tax Returns. **(NEW RULE)**

(1) **Scope** – This rule explains the electronic filing mandate requirements and exclusions for both an income tax return preparer and an Estate/Trust.

(2) **Definitions.**

(a) Income tax preparer - a person, firm or company who meet one of the following:

1. Any person who prepares an Alabama corporate/partnership income tax return in exchange for compensation.

2. Any person who employs another person to prepare, in exchange for compensation, any current year Alabama corporate/partnership income tax return.

3. Any accounting firm or company who employs a person or group of people who prepare, in exchange for compensation, any current year Alabama corporate/partnership income tax return.

(b) “Original” fiduciary income tax return - any return that is required, to be filed with respect to the tax imposed as defined by Section 40-18-2, Code of Alabama 1975.

(c) “Timely” original fiduciary tax return - any original fiduciary tax return that is filed, without regard to extensions, during the calendar year for which that tax return is required to be filed.

(d) “Acceptable” fiduciary income tax return - for the purposes of the mandatory corporate/partnership income tax filing program, any original fiduciary tax return that is authorized by the Department to be filed solely using electronic technology as defined in Section 40-30-3(2), Code of Alabama 1975.

(e) Tax preparation software - any computer software program intended for accounting, tax return preparation, or tax compliance.

(3) **Income Tax Return Preparer Mandate.**

(a) If an income tax return preparer prepares 25 or more acceptable, original fiduciary income tax returns using tax preparation software in a calendar year, then for that calendar year and for each subsequent calendar year thereafter, all acceptable fiduciary income tax returns prepared by that income tax preparer must be filed using electronic technology, as defined in the “Electronic Tax Return Filing Act,” as codified in Chapter 30 of Title 40, Code of Alabama 1975.

(b) Paragraph (3a) of this rule, applies to acceptable fiduciary income tax returns required to be filed for taxable years beginning on and after January 1, 2016.

(c) Paragraph (3a) shall cease to apply to an income tax preparer if, during that calendar year and all subsequent years, the income tax preparer prepared no more than 15 original fiduciary income tax returns.

(d) Paragraph (3a) of this rule, may not be interpreted to require electronic filing of acceptable fiduciary income tax returns that are required to be filed on or before January 1, 2016.

(4) Estate/Trust Fiduciary Income Tax Mandate.

(a) Estates/Trusts with 20 or more beneficiaries at the end of the Estate/Trust's taxable year are mandated to e-file Alabama fiduciary income tax returns, for that calendar year and all subsequent tax years.

(5) Exclusions from the E-file Mandate.

(a) If an entity is exempt from filing the federal 1041 as stated in the IRS publication 4164 for the tax year of the Alabama return being filed, then they are exempt from the Alabama e-file mandate.

(b) Opting to paper file the federal 1041 does not exclude an income tax preparer or Estate/Trust from the Alabama e-file mandate. To be in compliance with the Alabama e-file mandate, an accepted current tax year federal return must be transmitted electronically with the mandated electronic Alabama return.

Author: Melissa Gillis, Veronica Jennings

Authority: Sections 40-2A-7(a)(5), 40-18-40, and 40-30-1 through 6, Code of Alabama 1975

History: